

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Eighth Congress

April 1, 2003

The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Ashcroft:

As the Chairman and Ranking Member of the House Committee on the Judiciary, it is our responsibility to conduct oversight of the Department of Justice's efforts to combat terrorism, which includes implementation of the USA PATRIOT Act ("Act") signed into law by President Bush on October 26, 2001. In response to our letter of June 13, 2002, you provided us with information regarding the use of these new tools, which helped us to understand the complexity and extensive scope of the effort to implement the law.

The Department of Justice has also been faced with significant new challenges to which it has responded using existing authorities as well as those contained in the Act. This letter seeks information regarding the use of preexisting authorities and the new authorities conferred by the Act.

Unless otherwise indicated, please provide your responses to the Committee current through March 31, 2003. In addition, if any answer requires the disclosure of classified material, please provide those answers under separate cover to the Committee or to the House Permanent Select Committee on Intelligence ("HPSCI") in accordance with appropriate security procedures. We will review those responses under appropriate procedures that HPSCI and this Committee establish pursuant to the rules of the House.

To the extent that a question relates to the authority or operations of the Immigration and Naturalization Service, all of which have been transferred to the Department of Homeland Security ("DHS"), you may either answer the question or refer the questions to the appropriate official at DHS. If you refer the question to DHS, please notify us of the identity of the official to whom the question has been referred.

Please respond to the following questions:

USA PATRIOT Act

1. Section 215 of the Act amended 50 U.S.C. § 1861 to allow the FBI Director or his designee (who must hold the rank of Assistant Special Agent in Charge or higher) to apply for an order from the Foreign Intelligence Surveillance Court for “the production of tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities” Such an investigation may only be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order). 50 U.S.C. § 1861(a)(2)(A).
 - A. What guidelines has the Attorney General approved under Executive Order 12333 or a successor order for the conduct of such investigations?
 - B. Before such an order can be sought, do the guidelines require that the FBI have already established probable cause that a person under investigation is an agent of a foreign power? What is the Department’s definition of “probable cause” and how has it changed since September 11, 2001?
 - C. Please produce all guidelines approved under Executive Order 12333 or a successor order for the conduct of such investigations.
2. Such investigations also may not be conducted of a United States person solely on the basis of activities protected by the First Amendment to the Constitution of the United States. 50 U.S.C. § 1861(a)(2)(B). Other authorities under the Foreign Intelligence Surveillance Act (“FISA”) are also subject to the limitation that an investigation of a United States person in which those authorities are used may not be conducted solely on the basis of activities protected by the First Amendment to the U.S. Constitution. See, e.g., 50 U.S.C. § 1842 (regarding pen register and trap and trace orders under FISA).
 - A. In seeking such orders, does the government make an explicit certification that an investigation of a United States person is not being conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States?
 - B. In issuing such orders, does the court make an express finding that an investigation of a United States person is not being conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States?

3. The Department has increased the use of "national security letters" that require businesses to turn over electronic records about finances, telephone calls, e-mail and other personal information.
 - A. Please identify the specific authority relied on for issuing these letters.
 - B. Has any litigation resulted from the issuance of these letters (i.e. challenging the propriety of legality of their use)? If so, please describe.
4. Has any administrative disciplinary proceeding or civil action been initiated under section 223 of the Act for any unauthorized disclosure of certain intercepts? If so, please describe each case, the nature of the allegations, and the current status of each case.
5. In the Administration's 2004 Budget Request, DOJ is requesting \$22 million to establish an automated cross-case analytical system to facilitate sharing case specific information through the agencies that belong to the Organized Crime Drug Enforcement Task Force Program. These include law enforcement agencies in DOJ, the Department of Homeland Security, and the Department of Treasury. Is this system also intended to facilitate implementation of the authority to share criminal investigative information with intelligence officials under Section 203 of the Act? Will it be used for that purpose?
6. What has been the role of the Department in establishing standards or procedures regarding implementation of the authorities provided in Section 358 (Bank Secrecy Provisions and Activities of United States Intelligence Agencies to Fight International Terrorism)? Please provide any written guidance regarding the requirements of that section that the Department has either issued or approved.
7. What are the dollar amounts that have been paid under the reward authorities provided in Section 501 of the Act or the terrorism related awards under the newly enacted 28 U.S.C. § 530(C)(b)(1)(J)? How many non-U.S. citizens have received rewards under these authorities?
8. The Administration's Office of Justice Programs 2004 Budget request includes a \$12 million increase for Regional Information Sharing System (RISS) improvements. The request refers to Section 701 of the USA PATRIOT Act and states that the requested increase will be used to expand RISS's accessibility to state and local public safety agencies to share terrorism alerts and related information. Please provide the Committee with a description of the management oversight process by which DOJ will ensure that the proposed expenditures will accomplish improvements in the U.S. information infrastructure and the specific improvements that are envisioned. Please provide copies of any guidance issued to state and local agencies with respect to the further

dissemination of such materials.

9. Under section 213 of the USA PATRIOT Act, a court may order a delay in any notice of the execution of a search warrant if "the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result," which is defined as (1) endangering the life or physical safety of an individual; (2) flight from prosecution; destruction or tampering with evidence; (3) intimidation of potential witnesses; or (4) otherwise seriously jeopardizing an investigation or unduly delaying trial. Please respond to the following questions regarding the use of this authority:
 - A. How many times has the Department of Justice sought an order delaying notice of the execution of a warrant under this section?
 - B. How many times has a court ordered the delay in such notification?
10. That same section allows the notice to be delayed when the warrant prohibits the seizure of among other things, any tangible property, unless "the court finds reasonable necessity for the seizure." 18 U.S.C. § 3103a (b)(2).
 - A. Since the enactment of that section, how many times has the government asked a court to find reasonable necessity for a seizure in connection with delayed notification under this section?
 - B. On what grounds has the government argued that seizure was reasonably necessary under a warrant for which the government also asked for delayed notification?
 - C. How often has a court found "reasonable necessity for the seizure" in connection with a warrant for which it also permitted delayed notification?
 - D. How often has a court rejected the government's argument that a seizure was reasonably necessary in connection with a warrant for which the government sought delayed notification?
 - E. On what grounds have the courts found that the seizures were reasonably necessary in connection with warrants for which delays in notification were granted?

- F. What grounds have the courts rejected as establishing reasonable necessity for a seizure in connection with a warrant for which the government sought delayed notification?
11. That same section allows a court to order delayed notice when “the warrant provides for the giving of such notice within a reasonable period of its execution, which may be extended for by the court for good cause show.” 18 U.S.C. § 3103a(b)(3).
- A. What are the shortest and longest periods of time for which the government has requested initial delayed notice?
 - B. On what grounds has the government argued that the period of delayed notification was reasonable?
 - C. How often has the government sought an extension of the period of delayed notice?
 - D. On what grounds has the government asked for an extension of the period of delayed notice?
 - E. How often has a court rejected the government’s request for delayed notification on the ground that the period for giving delayed notice was unreasonable?
 - F. On what grounds have the courts rejected the government’s position that the period for giving delayed notice was reasonable?
 - G. How often has a court rejected the government’s request for an extension of the period of delayed notification?
 - H. On what grounds have the courts rejected the government’s argument that an extension of the period for delayed notice was reasonable?
12. On January 21, 2003, the *Wall Street Journal* published an article entitled “New Powers Fuel Legal Assault on Suspected Terrorists.” That article claims that the Department of Justice is using information that was “previously largely unavailable” and that had been obtained from FISA surveillance to support criminal prosecutions. According to the article, this information is now available to prosecutors as a result of the FISA Review Court’s decision regarding the meaning of the Act’s amendment to FISA permitting the government to obtain a surveillance order when “a significant purpose,” (rather than “the purpose”) of the surveillance is to collect foreign intelligence.

- A. Prior to the FISA Review Court's decision, as long as surveillance was properly ordered for "the purpose" of collecting foreign intelligence, was there any legal impediment to prosecution of a crime using evidence obtained under FISA?
 - B. Please identify all cases brought since the FISA Review Court's decision that use information that was previously unavailable under FISA procedures.
 - C. Please explain why such information was unavailable and why it became available following the FISA Review Court's decision.
13. The FISA Review Court's decision permits enhanced coordination between law enforcement and intelligence officials.
- A. What FISA-related training is currently being planned or conducted?
 - B. What topics will it address?
 - C. Who will give the training?
 - D. Who will receive the training?
 - E. Is the training going to be coordinated with the Intelligence Community in general and/or the Director of Central Intelligence?
14. How many emergency FISA surveillance orders did the Department of Justice process between FISA's enactment and September 11, 2001? How many has it processed since September 11, 2001? Has the change from 24 to 72 hours in 50 U.S.C. 1805(f) and 1824(e) facilitated the use of FISA emergency searches and surveillance, and if so, how?
15. Since enactment of the USA Patriot Act, what procedures have been implemented to improve the efficiency of processing FISA applications?
16. In testimony presented to the Senate Judiciary on March 4, 2003, FBI Director Robert Mueller stated that:

The FBI's efforts to identify and dismantle terrorist networks have yielded major successes over the past 18 months. We have charged over 200 suspected terrorists with crimes - half of whom have been convicted to date. The rest are awaiting trial. Moreover, our efforts have damaged terrorist networks and disrupted terrorist plots across the country. In the past month alone, the FBI has

arrested 36 international and 14 domestic suspected terrorists.

- A. What authorities under the USA PATRIOT Act were used in identifying and dismantling terror networks and were relied upon to prevent terrorist plots?
 - B. In your judgment, how many of those investigations would have been much more difficult or impossible without the authorities available under the Act?
17. The Act supplemented the government's authority to freeze and forfeit assets of suspected terrorists and terrorist organizations. Please provide the Committee with information related to the freezing or confiscation of such assets since the enactment of the Act.
- A. Please identify all suspected terrorists or terrorist organizations whose assets the federal government has frozen or forfeited?
 - B. Please identify the specific authority, whether or not under the Act, that the federal government has asserted in freezing or forfeiting the assets of suspected terrorists or terrorist organizations.
 - C. Have any seizures or forfeitures been challenged in court?
 - D. What have been the results of any such challenges?
 - E. Has any court, pursuant to section 316 of the Act (codified at 18 U.S.C. § 983 note), admitted evidence that would otherwise be inadmissible in a forfeiture proceeding? If so, on what circumstances justified admitting such evidence in such cases?
18. Section 402 authorizes appropriations to triple the number of INS Border Patrol Agents and Inspectors in each state along the Northern Border, and also authorizes appropriations to provide necessary personnel and facilities to support such personnel.
- A. How many additional Inspectors has the INS hired at the Ports of Entry along the Northern Border?
 - B. How many of those hires are working as Inspectors along the Northern Border at this time?
 - C. By how many Inspectors has the total staffing at the ports along the Northern Border increased since September 11, 2001?

19. What technology improvements have been completed and what additional technology improvements are planned for FY2003 expenditures to improve Northern Border security?
20. Subtitle B of Title IV of the USA PATRIOT Act gives the Attorney General additional authority to detain certain suspected alien terrorists, and improves systems for tracking aliens entering and leaving the United States and for inspecting aliens seeking to enter the United States. Section 411 amends the Immigration and Nationality Act (INA) to broaden the scope of aliens ineligible for admission or deportable due to terrorist activities, and defines the terms "terrorist organization" and "engage in terrorist activity."
 - A. Has the INS relied upon the definitions in section 411 of the Act to file any new charges against aliens in removal proceedings? If so, how many times has it used each provision?
 - B. In your July 26, 2002 response, you stated that one alien had been denied admission under these new provisions. Have any aliens been denied admission under these grounds since that response?
 - C. What effect have the amendments to the INA in section 411 of the Act had on ongoing investigations in the United States?
 - D. Section 212(a)(3)(F) of the INA, as amended by section 411 of the Act, renders inadmissible any alien who the Attorney General determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities endangering the United States. Has the Attorney General made such a determination with respect to any alien thus far?
 - E. Have there been any challenges to the constitutionality of the charges added to the INA by section 411 of the Act? If so, please identify the case(s) and the status of the proceedings.
21. Section 412 of the Act provides for mandatory detention until removal from the United States (regardless of relief from removal) of an alien certified by the Attorney General as a suspected terrorist or threat to national security. It also requires release of such alien after seven days if removal proceedings have not commenced, or if the alien has not been charged with a criminal offense. In addition, this section of the Act authorizes detention for additional periods of up to six months of an alien not likely to be deported in the reasonably foreseeable future if release will threaten our national security or the safety of the community or any person. It also limits judicial review to habeas corpus proceedings

in the U.S. Supreme Court, the U.S. Court of Appeals for the District of Columbia, or any district court with jurisdiction to entertain a habeas corpus petition, and limits the venue of appeal of any final order by a circuit or district judge under section 236A of the INA to the U.S. Court of Appeals for the District of Columbia.

- A. At the time of your July 26, 2002 response, you had not used the authority in Section 412. Have you used the authority since that response? If so, please state:
- i. How many of the aliens for whom certifications have been issued have been removed?
 - ii. How many aliens for whom the Attorney General issued certifications are still detained? At what stage of the criminal or immigration proceedings are each of those cases?
 - iii. How many of the aliens who were certified have been granted relief? How many of those aliens are still detained?
 - iv. Have any challenges to certifications under section 236A(a)(3) of the INA been brought in habeas corpus proceedings in accordance with section 236A(b)? If so, please identify the case(s) and the status of each proceeding.
 - v. Has the Attorney General released any aliens detained under section 236A because the alien was not charged with a criminal offense or placed into removal proceedings within seven days?
 - vi. How many non-certified aliens have received relief from removal and remain detained longer than 6 months since such relief was ordered?
22. On September 20, 2001, the INS issued an interim rule amending the period of time that an alien may be detained while the agency assesses whether to issue a Notice to Appear (NTA), placing the alien in immigration proceedings. Prior to amendment, the INS was required to issue an NTA within 24 hours of the alien's arrest. As amended, the INS has 48 hours after an alien is arrested to decide whether to issue an NTA, "except in the event of an emergency or other extraordinary circumstance in which case a determination will be made within an additional reasonable period of time."
- A. What is the authority for the INS to detain an alien for longer than 48 hours without filing charges?

- B. How many aliens have been detained for more than 48 hours without being charged under the authority in this regulation?
 - C. What is the longest period that an alien has been detained without being charged under the authority in this regulation?
 - D. Have any challenges to this regulation been brought in judicial proceedings? If so, please identify the case(s) and the status of each proceeding.
23. Since September 11, 2001, the government has required that certain non-citizens from certain Middle Eastern countries register with the INS (or its successor agency).
- A. How many terrorists or suspected terrorists have been investigated and/or detained as a result of the requirement that non-citizens register with the federal government?
 - B. What is the government's policy regarding whether non-citizens are able to have counsel present during the registration process, specifically during the interview?
 - C. If counsel are not permitted at any point, what is the government's authority for denying such right to counsel?
24. Since September 11, 2001, how many individuals have been deported from the United States? To what countries were those individuals deported? What was the racial and ethnic background of such individuals? For what reason were these individuals deported?

Attorney General's Investigative Guidelines

25. On May 14, 2002, the Department issued revised investigative guidelines that established procedures for the initiation of investigations by the Federal Bureau of Investigation ("Bureau").
- A. Why were the guidelines for General Crimes and Domestic Security Investigations revised when the apparent threat against the United States is a threat from foreign terrorist groups? Do these guidelines apply only to investigations of U.S. citizens? Are U.S. citizens not subject to the foreign intelligence investigative guidelines?

- B. The new guidelines allow FBI agents to attend a public event, such as a political demonstration or a religious service, and to use data mining services, provided doing so is for the purpose of preventing or detecting terrorism. How will it be determined that the purpose of attending the event or using the service is to prevent or detect terrorism? How does the amount of evidence establishing that predicate differ from the amount of evidence that would be sufficient to check out leads or open a preliminary inquiry? What level of predication is required to permit FBI agents to attend public events or to use data mining services?
- C. Since the issuance of these guidelines, how many religious sites (mosques, churches, temples, synagogues, etc.) have federal authorities entered in an official capacity without disclosing their identities? Please provide the total number of such sites and a breakdown of how many were affiliated with each particular type of site (mosque, church, temple, synagogue, etc.).

When agents visit religious sites pursuant to AG guidelines, what investigative tools are they permitted to use (i.e., wearing a wire, placing a listening device in the site)? If the information obtained from such visits is found unrelated to any criminal or terrorist investigation, when is such information destroyed and in what manner? Have, and if so provide details, any terrorism-related investigations or prosecutions resulted from such visits?

- D. Since the issuance of these guidelines, how many public meetings, and what types of such meetings (rallies, town halls), have federal authorities entered in an official capacity without disclosing their identities?

When agents visit public meetings pursuant to FBI guidelines, what investigative tools are they permitted to use (e.g., wearing a wire, placing a listening device in the meeting area)? If the information obtained from such visits is found unrelated to any criminal or terrorist investigation, when is such information destroyed and in what manner? Have, and if so provide details, any terrorism-related investigations or prosecutions resulted from such visits?

- E. Are FBI agents required to record in writing -- before they use data mining techniques or attend a public event under the guidelines -- how such activity is for the purpose of detecting or preventing terrorism?

- F. The changes to the preliminary inquiry procedures extended the period that such an inquiry can remain open and allowed extensions for up to a year without notice to FBI Headquarters. In considering this change, did you find that your field agents had been reluctant to conduct preliminary inquiries because they could not keep them open long enough without burdensome approval requirements? What other problems did the 90-day limit present to agents? What other problems did requiring approval from Headquarters to continue a preliminary inquiry present to agents? How does Headquarters conduct important analysis of information generated by a preliminary inquiry if Headquarters is unaware of the inquiry for a year?
- G. The Guidelines now permit a Special Agent in Charge to open a terrorism enterprise investigation without obtaining approval from FBI Headquarters. Instead, Headquarters must only be notified. What is contained in the required notice? Does the notice provide enough of a description of the evidence to permit FBI Headquarters to make an evaluation of the evidence and determine whether the investigation should continue or is it simply a formal notification that such an investigation has been opened and/or is continuing? Will the information in the notification be sufficient to use it to coordinate that investigation with others?
- H. Who at the Bureau is responsible for making and approving the decision for a field agent to enter a public place, and must such approval be in writing prior to entering the public place?
- I. After a field agent visits a public place or event, are any notes or other records of what he or she observed retained? If so, under what circumstances, for what reasons, and for how long are they retained? Under what circumstances is information related to protected 1st Amendment activity retained in FBI or DOJ files? Are any records retained if a preliminary inquiry is never opened?
- J. Who has access to any records and how does the FBI keep them secure?
- K. Given the transfer of a substantial number of agents into terrorism investigations, what training did those agents receive on the use of the Guidelines?
- L. With the FBI's authority to "data mine" under the Guidelines, many fear that the FBI will have too much information and that the Bureau does not currently have the tools necessary to make good use of intelligence or to keep vast amounts of information secure. What has been done and is being done to improve the Bureau's ability to interpret all of this new data? What security measures have been implemented to prevent unauthorized access to such data?

- M. Since the Guidelines permit the use of "publicly available" information, what efforts are going to be made to verify the accuracy of the data retrieved? Will agents be required to attempt to independently verify retrieved information for accuracy?
- N. What type of supervision will be required when agents use data mining? Will field agents be able to initiate data mining on their own or will they be required to obtain approval from a supervisor?
- O. What data mining services has the FBI used? How long will data obtained through data mining be retained and how will it be indexed?
- P. In its May 2002 Report on Financial Privacy, Law Enforcement, and Terrorism, the Prosperity Task Force on Information Exchange and Financial Privacy outlined many problems with sharing too much information with too many countries and without proper controls. How has the FBI protected against the wide distribution of information to too many countries without proper controls?
- Q. Since Syria, Cuba, Libya, Iran, Iraq, China, and others are members of Interpol and share in the international information exchange system, what procedures prevent these countries from receiving information on terrorist suspects who may be supported by participating countries?
- R. The Guidelines permit acceptance and retention of information "voluntarily provided by private entities." What will the FBI do to ensure the accuracy of the information received from such sources? To what extent have such "private entities" been third parties as opposed to the specific individuals to whom the information pertained? How does the Department interpret "voluntarily" (e.g., does it mean the information was unsolicited, was provided pursuant to a government request, or was provided pursuant to a government subpoena)?
- S. Where and how is information obtained through data mining stored? Is access to data obtained through data mining limited to those involved in a particular investigation? How is erroneous information corrected or purged, if at all? Has the Department issued written policies to provide guidance in this area? Does it plan to issue such policies?

Has, and from what companies, the Department purchased information or entered into contracts with data mining companies? To what extent and how will persons listed in such information be able to correct errors or inaccuracies?

- T. Is retained information reviewed at reasonable intervals to determine its continuing relevance to antiterrorism efforts? If so, who is responsible for performing such reviews?

Miscellaneous Authorities

26. There have been numerous reports that the Department of Justice has detained individuals as material witnesses, presumably pursuant to judicial orders under 18 U.S.C. § 3144, in connection with terrorism investigations. Please provide the Committee with the following information with respect to each such detainee since September 11, 2001: (1) the length of detention of each detainee; (2) the number of such detainees who either sought review of or filed an appeal from a detention order under 18 U.S.C. § 3145; and (3) the results of such review or appeal.
- A. Were these individuals given access to legal counsel? If not, why not?
- B. What is the percentage breakdown for the detainees in terms of national origin, race, and ethnicity?
- C. Please list the charges that the Department has brought against each such detainee.
- D. Please provide the legal basis for detaining those individuals who have been cleared of any connection with terrorism beyond the date of such clearance.
- E. Please provide a list of all requests by the government to seal proceedings in connection with any of the detainees and copies of any orders issued pursuant thereto.
27. On October 31, 2001, the Department of Justice promulgated an interim rule, with provision for post promulgation public comment, that requires the director of the Bureau of Prisons to monitor or review the communications between certain inmates and their lawyers for the purpose of deterring future acts that could result in death or serious bodily injury to persons or substantial damage to property that would entail the risk of death or serious bodily injury to persons. 66 Fed. Reg. 55062, 55066 (2001).
- A. How many inmates have been subject to the interim rule?
- B. The interim rule required prior written notification to an inmate and any attorneys involved "[e]xcept in the case of prior court authorization. 66 Fed. Reg. at 55066. Under this exception to the required notification, how many cases were there/are there where inmates and their attorneys were not notified that their

communications were monitored?

- C. The interim rule prohibited disclosure of information prior to approval of disclosure by a federal judge, except where the person in charge of the monitoring determines that acts of violence or terrorism are imminent. How many times did the person in charge of the monitoring disclose information after approval by a federal judge? After a determination that acts of violence or terrorism are imminent?
 - D. How many post-promulgation comments were received by the Department of Justice?
 - E. Is the Department of Justice considering any revisions to the interim rule?
28. The Department of Defense has detained two United States citizens in military prisons in the United States as enemy combatants. These detentions have been challenged in court, where the Department of Justice has represented the Department of Defense. Has the Department of Justice received any information regarding the detention by the Department of Defense within the United States or abroad of any other United States citizens? Does the Department of Justice have any agreement, arrangement, or understanding, formal or informal, with the Department of Defense regarding the detention of United States citizens as enemy combatants?
29. FBI Director Robert Mueller announced the formation of "flying squads" that would be prepared to be deployed on short notice into terrorism investigations.
- A. Have these "flying squads" been formed?
 - B. How many agents are assigned to a flying squad?
 - C. What kind of training have the flying squad agents received?
 - D. Have they been deployed into investigations?
 - E. If so, how many times?
 - F. Did they prove to be a useful addition to the investigation to which they were deployed?

30. Does the FBI use, as one of its terrorism investigative tools, aircraft to conduct surveillance of various persons or locations? What type of information is sought using such surveillance?
31. Has the DOJ through any of its agencies formulated a policy position regarding criteria for establishing the authenticity of foreign government-issued identity cards since the passage of the USA PATRIOT Act? If so, please produce a copy of that position.
32. Has the DOJ through any of its agencies, including especially the INS, prepared or issued a policy with regard to security standards and acceptance of "Matricula Consulars" identity cards issued by foreign governments to persons who are residing in the United States but who may not be lawfully present in the United States.? If so, has that policy been provided in writing to the Office of Management and Budget, the Secretary of State, or the Secretary of the Treasury? If such a policy has been prepared, please provide a copy to the Committee.
33. Regarding the FBI's National Crime Information Database, has the Department lifted a requirement that the FBI ensure the accuracy and timeliness of information about criminals and crime victims before adding it to the database? Please provide a copy of any memoranda pertaining to the requirement that was lifted.
34. Is the FBI is ordering its field offices to ascertain the number of mosques and Muslims in their areas? Is the government seeking membership lists from mosques? If so, why? From how many mosques is the government seeking such lists? How, if at all, has the agency reassigned its agents as a result? How many investigations of or prosecutions for terrorism as a result of these activities?
35. Is the Department assisting in the implementation of the Computer Assisted Passenger Prescreening System (CAPPS I or II), which would be used to screen airline passengers?
 - A. To what extent is the Department, or any of its components, providing information about specific persons for inclusion in CAPPS?
 - B. From what databases or other sources, including companies, does such information come from?
 - C. What checks are in place to ensure that the information is accurate and does not constitute inappropriate profiling?
 - D. In what manner are individuals afforded an opportunity to correct erroneous or inaccurate information?

36. "Operation Liberty Shield" involves stopping cars at airports, checking the identification of truckers who transport hazardous material on the highway, and monitoring Internet and financial transactions.
- A. Please identify the specific authority on which "Operation Liberty Shield" was created and implemented.
 - B. What level of predication is required before an agent may monitor the Internet and financial transactions?
 - C. What terrorism-related investigations and/or prosecutions have resulted from Operation Liberty Shield?
37. There have been three successive FBI sweeps since September 11, 2001, to monitor, question, arrest, detain, or deport various immigrants. The first sweep focused on young Arab and Muslim males and occurred in the months following September 11, 2001. The second sweep occurred in March 2002 and centered on thousands of individuals of Middle Eastern and South Asian heritage. The third sweep occurred in March 2003 as part of "Operation Liberty Shield." Please provide information on each of these operations.
- A. When were the plans for such operations first considered by the Department?
 - B. What guidance was provided to U.S. Attorney's Offices and/or FBI offices with respect to questions that should be asked of such immigrants?
 - C. What has been the outcome of each of these plans? Please provide details such as how many were monitored, questioned, arrested, detained, or deported for each operation. Please provide details as to the number and types of terrorism-related investigations and prosecutions that have resulted from these sweeps.
 - D. Please identify the specific authority relied on to create and implement these plans, including the monitoring, questioning, arrests, detentions, and deportations.
38. In August 2002, a Justice Department rule went into effect giving authority to state and local police to enforce immigration laws.
- A. Which state and local governments are using this new authority and to what extent?

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- B. How many immigration violations were found as a result of state and local law enforcement participation under this new authority?
- C. Have any persons or groups affected by this new authority (e.g. immigrants, civil rights organizations) submitted any formal complaints to the Department (including the Inspector General) regarding this authority. If so, please provide details.

Please forward your responses to these questions to the Committee at the address on this letter not later than Tuesday, May 13, 2003. Please contact Committee Chief of Staff and General Counsel Phil Kiko at 202-225-3951 or Minority Counsel Sampak Garg at 202-225-6906 if you have any questions about this request.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman



JOHN CONYERS, JR.
Ranking Member

FJS/pgk